

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

§

*Plaintiff,*

§

v.

CASE NO. 7:20-CV-434

0.5467 ACRES OF LAND, MORE OR  
LESS, SITUATE IN STARR COUNTY,  
STATE OF TEXAS; AND JUAN  
INDALECIO GARCIA, ET AL.,

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*Defendants.*

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**COMPLAINT IN CONDEMNATION**

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1. This is a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security, for the taking of property under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338.

3. The interest in property taken herein is under and in accordance with the authority set forth in Schedule "A."

4. The public purpose for which said interest in property is taken is set forth in Schedule "B."

5. The legal description and map or plat of land in which certain interests are being

acquired by the filing of this Complaint, pursuant to the Declaration of Taking, are set forth in Schedules "C" and "D."

6. The interest being acquired in the property described in Schedules "C" and "D" is set forth in Schedule "E."

7. The amount of just compensation estimated for the property interest being acquired is set forth in Schedule "F."

8. The names and addresses of known parties having or claiming an interest in said acquired property are set forth in Schedule "G."

9. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

WHEREFORE, Plaintiff requests judgment that the interest described in Schedule "E" of the property described in Schedules "C" and "D" be condemned, and that just compensation for the taking of said interest be ascertained and awarded, and for such other relief as may be lawful and proper.

Respectfully submitted,

**RYAN K. PATRICK**  
United States Attorney  
Southern District of Texas

By: N. Joseph Unruh  
**N. JOSEPH UNRUH**  
Assistant United States Attorney  
Southern District of Texas No. 1571957  
Texas Bar No. 24075198  
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McAllen, TX 78501  
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Attorney in Charge for Plaintiff

# **SCHEDULE A**

**SCHEDULE A**

**AUTHORITY FOR THE TAKING**

The properties are taken under and in accordance with 40 U.S.C. §§ 3113 and 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, 110 Stat. 3009-546, 3009-554-55, as amended and codified at 8 U.S.C. § 1103(b) & note; and the Acts of Congress approved March 23, 2018, as Public Law 115-141, div. F, tit. II, 132 Stat. 348, and February 15, 2019, as Public Law 116-6, div. A, tit. II, Section 230, 133 Stat. 13, which appropriated the funds that shall be used for the taking.

# **SCHEDULE B**

**SCHEDULE B**

**PUBLIC PURPOSE**

The public purpose for which said properties are taken is to construct, install, operate, and maintain a border security tower, roads, fencing, vehicle barriers, security lighting, cameras, sensors, and related structures designed to help secure the United States/Mexico border within the State of Texas.

# SCHEDULE C

**SCHEDULE C**

**LEGAL DESCRIPTION**

Starr County, Texas

Tracts: RGV-RGC-T2003E-1 & RGV-RGC-T2003E-2

Owner: Juan Indalecio Garcia, et al.

Acres: 0.5467

**RGV-RGC-T2003E-1 (Temporary 4 Year Access and Utility Easement):**

BEING a 0.1429 acre tract of land situated in the Diego Garcia Survey, Abstract Number 82, Porcion 78, Starr County, Texas, and being part of a called 134.7 acre tract of land described in Corrected Gift Deed to Enrique Gonzalez, as recorded in Volume 0965, Page 810 of the Official Records of Starr County, Texas (O.R.S.C.T.), and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch found iron rod for corner on the southwest line of a called 1.762 acre tract of land described as Tract RGV-RGC-2003 in General Warranty Deed to the United States of America, as recorded in Volume 1321, Page 672, O.R.S.C.T., and in Volume 1322, Page 727, O.R.S.C.T., and the northeast line of a called 101.307 acre tract of land described in Trustee's Distribution Deed to Margarita Alaniz, et al, as recorded in Volume 0895, Page 584, O.R.S.C.T.;

THENCE North 60 degrees 40 minutes 52 seconds West, with the southwest line of said 1.762 acres tract and the northeast line of said 101.307 acre tract, a distance of 64.53 feet to the northwest corner of said 1.762 acre tract;

THENCE North 50 degrees 54 minutes 34 seconds East, departing the northeast line of said 101.307 acre tract, with the northwest line of said 1.762 acre tract, a distance of 64.06 feet to a 112-inch set iron rod with a blue plastic cap stamped "HALFF ESMT" (hereinafter referred to as "with cap") for the POINT OF BEGINNING having a Texas Coordinate System 1983, South Zone Grid Coordinates of Northing: 16,658,214.44, Easting: 873,562.84;

**SCHEDULE C – Cont.**

THENCE over and across said 134.7 acre tract, the following bearings and distances:

North 22 degrees 23 minutes 19 seconds East, departing the northwest line of said 1.762 acre tract, a distance of 107.71 feet to a 1/2-inch set iron rod with cap on the southwest line of an existing 40-foot wide Perpetual Road Easement described as Tract RGV-RGC-2003-E1 (centerline description) in General Warranty Deed to the United States of America, as recorded in Volume 1321, Page 672, O.R.S.C.T., and in Volume 1322, Page 727, O.R.S.C.T., for comer;

South 58 degrees 41 minutes 58 seconds East, with the southwest line of said existing 40-foot wide road easement, a distance of 21.39 feet to a 1/2-inch set iron rod with cap for comer;

South 65 degrees 59 minutes 48 seconds East, continuing with the southwest line of said existing 40-foot wide road easement, a distance of 38.88 feet to a 1/2-inch set iron rod with cap for comer;

South 22 degrees 23 minutes 19 seconds West, departing the southwest line of said existing 40- foot wide road easement, a distance of 113.28 feet to a 1/2-inch set iron rod with cap on the northeast line of said 1.762 acre tract, for comer;

THENCE North 46 degrees 37 minutes 51 seconds West, with the northeast line of said 1.762 acre tract, a distance of 57.98 feet to a 1/2-inch set iron rod with cap for the north comer of said 1.762 acre tract;

THENCE South 50 degrees 54 minutes 34 seconds West, with the northwest line of said 1.762 acre tract, a distance of 12.27 feet to the **POINT OF BEGINNING AND CONTAINING 0.1429** of an acre or 6,224 square feet of land, more or less.

**SCHEDULE C – Cont.**

**RGV-RGC-T2003E-2 (Temporary Tower Easement):**

BEING a 0.4038 acre or 17,590 square feet of land situated in the Diego Garcia Survey, Abstract Number 82, Porcion 78, Starr County, Texas, and being part of a called 134.7 acre tract of land described in Corrected Gift Deed to Enrique Gonzalez, as recorded in Volume 0965, Page 810 of the Official Records of Starr County, Texas (O.R.S.C.T.), and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch found iron rod for corner on the northeast line of said 134.7 acre tract and the southwest line of an apparent remainder of a called 19.174 acre tract of land described in Warranty Deed to John A. Shuford, as recorded in Volume 273, Page 89, O.R.S.C.T.;

THENCE South 38 degrees 37 minutes 27 seconds East, with the northeast line of said 134.7 acres and the southwest line of said 19.174 acres, a distance of 263.40 feet to the **POINT OF BEGINNING** and being the northeast corner of herein tract, having a Texas Coordinate System 1983, South Zone Grid Coordinates of Northing: 16,657,824.91, Easting: 874,139.34;

THENCE South 38 degrees 37 minutes 27 seconds East, continuing with said northeast line 134.7 acres and the southwest line 19.174 acres, a distance of 200.12 feet to the southeast corner of herein described tract;

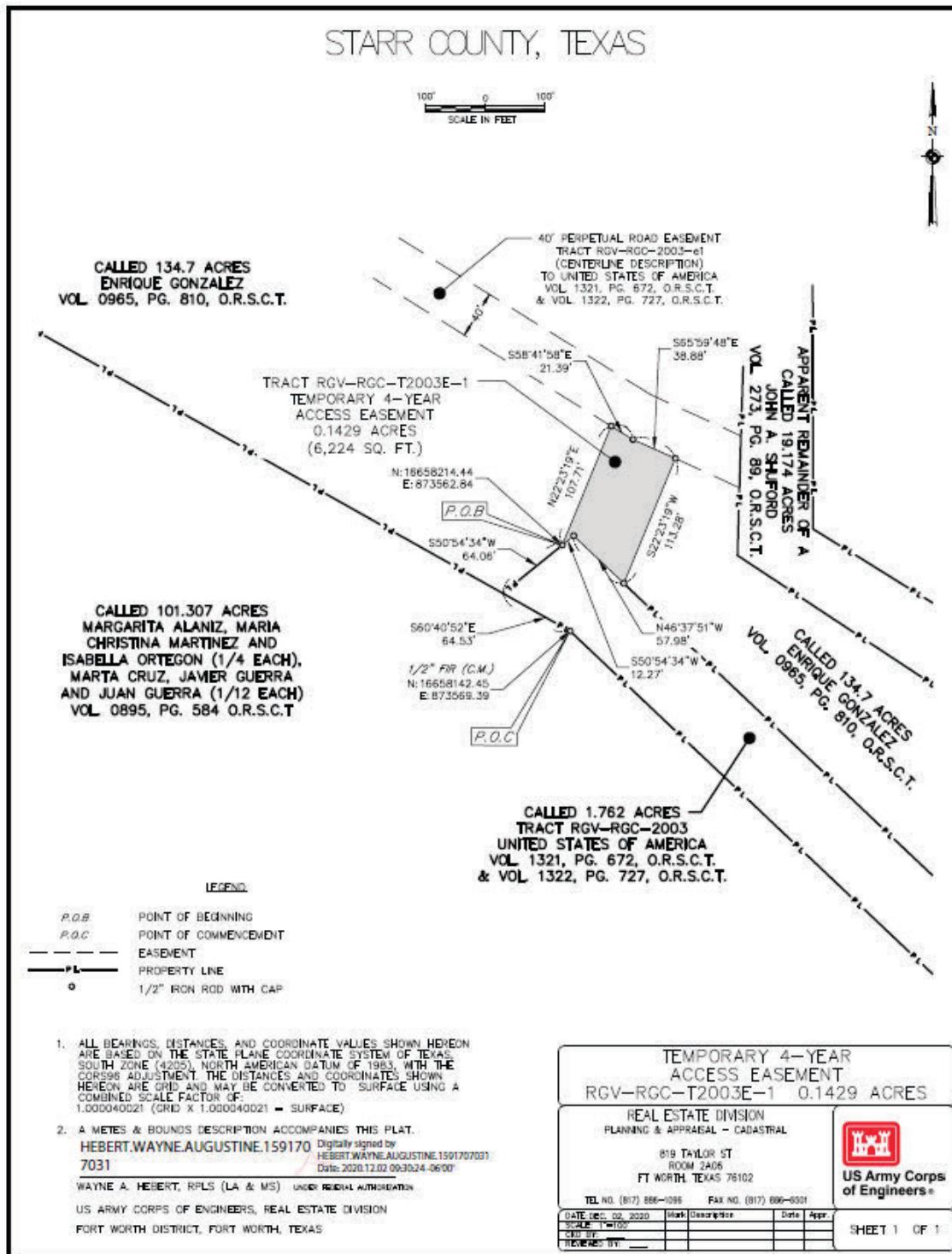
THENCE South 53 degrees 21 minutes 30 seconds West, departing said the northeast line 134.7 acres and the southwest line 19.174 acres, over and across said 134.7 acres a distance of 73.80 feet to a for the southwest corner of herein described tract, on the southwest line of said 134.7 acres and the northeast line a 1.762 acres tract of land described as Tract RGV-RGC-2003 in General Warranty Deed to the United States of America, as recorded in Volume 1321, Page 672, O.R.S.C.T., and in Volume 1322, Page 727, O.R.S.C.T.;

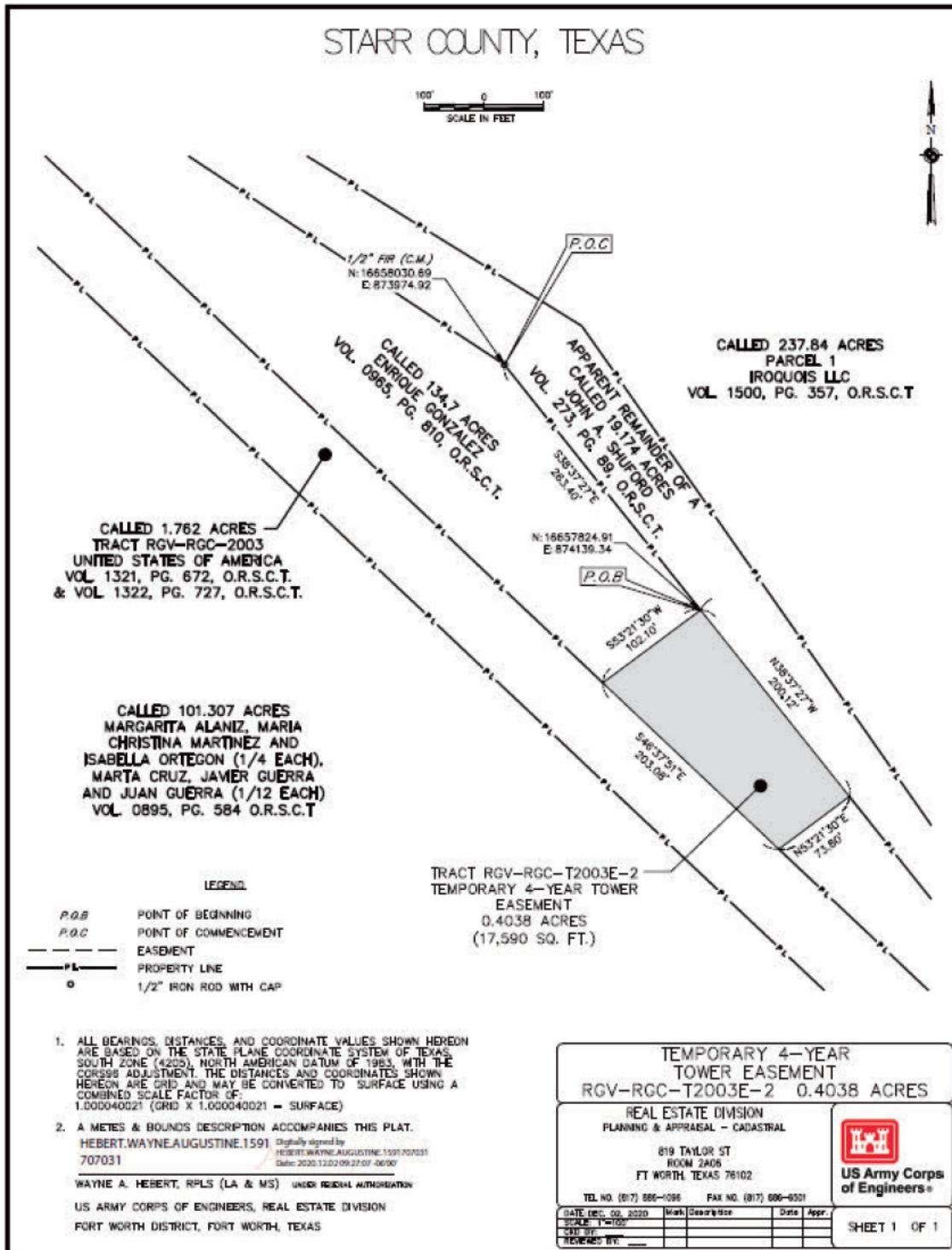
THENCE North 46 degrees 37 minutes 51 seconds West, along said southwest line 134.7 acres tract and the northeast line 1.762 acres, a distance of 203.08 feet to the northwest corner of herein described tract;

**SCHEDULE C – Cont.**

THENCE North 53 degrees 21 minutes 30 seconds East, departing the said southwest line of 134.7 acre and the northeast line 1.762 acres, over and across said 134.7 acres, a distance of 102.10 feet to the **POINT OF BEGINNING AND CONTAINING** 0.4038 of an acre or 17,590 square feet of land, more or less.

# **SCHEDULE D**

**SCHEDULE D****MAP or PLAT**

**SCHEDULE D (Cont.)**

Tracts: RGV-RGC-T2003E-1 &amp; RGV-RGC-T2003E-2

Owner: Juan Indalecio Garcia, et al.

Acres: 0.5467

# **SCHEDULE E**

**SCHEDEULE E**

**ESTATE TAKEN**

Starr County, Texas

Tracts: RGV-RGC-T2003E-1 & RGV-RGC-T2003E-2

Owner: Juan Indalecio Garcia, et al.

Acres: 0.5467

Road and Utility Easement

Tract No. RGV-RGC-T2003E-1

A non-exclusive, temporary and assignable easement and right-of-way in, on, over, under and across the land described in Schedule C, for a period not to exceed four years, beginning with date of possession of the land is granted to the United States, for use by the United States, its representatives, agents and contractors for the location, construction, operation, maintenance, alteration and replacement of a road and aboveground and underground utility lines and appurtenances thereto; together with the right to trim, cut, fell and remove any vegetative or structural obstacles that interfere within the right-of-way; subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving however, to the owners, their heirs and assigns, the right to use the surface of such land as access to their adjoining land or for any other use consistent with its use as a road and utility easement.

Tower Site Easement

Tract No. RGV-RGC-T2003E-2

An exclusive, temporary and assignable easement and right-of-way, in, on, over and across the land described in Schedule C, for a period not to exceed four years, beginning with date of possession of the land is granted to the United States, for use by the United States, its representatives, agents and contractors for the location, construction, operation, maintenance, alteration, repair, and patrol of re-locatable tower(s) and associated facilities; together with the right to trim, cut, fell and remove any vegetative or structural obstacles that interfere within the tower corridor; subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

# **SCHEDULE**

# **F**

**SCHEDULE F**

**ESTIMATE OF JUST COMPENSATION**

The total estimated compensation for the temporary easements to be taken is SEVEN HUNDRED FIFTY DOLLARS and NO/100 (\$750.00) to be deposited herewith in the Registry of the Court for the use and benefit of the person(s) entitled thereto.

# **SCHEDULE G**

**SCHEDULE G****INTERESTED PARTIES**

The following table identifies all persons who have or claim an interest in the property condemned and whose names are now known, indicating the nature of each person's property interest(s) as indicated by references in the public records and any other information available to the United States. See Fed. R. Civ. P. 71.1(c).

Interested Party	Reference
<b>Juan Indalecio Garcia</b> [REDACTED] Raymondville, TX [REDACTED]	Warranty Deed, Document #2018-343649; Recorded June 25, 2018, Official Records of Starr County, Texas
	Warranty Deed, Document #2018-344786; Recorded August 29, 2018, Official Records of Starr County, Texas
<b>Ameida Salinas</b> <b>Starr County Tax Assessor - Collector</b> 100 N FM 3167, Room 201 Rio Grande City, TX 78582	Property Taxes

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> United States of America		<b>DEFENDANTS</b> 0.5467 Acres of Land, More or Less, Situate in Starr County, State of Texas; and Juan Indalecio Garcia, et. al.																					
(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		County of Residence of First Listed Defendant <u>Starr</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i>																					
(c) Attorneys (Firm Name, Address, and Telephone Number) N. Joseph Unruh, United States Attorney's Office, Southern District of Texas, 1701 West Bus. Hwy. 83, Ste. 600, McAllen, TX 78501		NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.																					
		Attorneys ( <i>If Known</i> )																					
<b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i>		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i>																					
<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State																				
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State																				
		Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3 Foreign Nation																				
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<b>IV. NATURE OF SUIT</b> <i>(Place an "X" in One Box Only)</i>		Click here for: <a href="#">Nature of Suit Code Descriptions</a> .																					
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>CONTRACT</th> <th>TORTS</th> <th>FORFEITURE/PENALTY</th> <th>BANKRUPTCY</th> <th>OTHER STATUTES</th> </tr> </thead> <tbody> <tr> <td> <input type="checkbox"/> 110 Insurance  <input type="checkbox"/> 120 Marine  <input type="checkbox"/> 130 Miller Act  <input type="checkbox"/> 140 Negotiable Instrument  <input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment  <input type="checkbox"/> 151 Medicare Act  <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)  <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits  <input type="checkbox"/> 160 Stockholders' Suits  <input type="checkbox"/> 190 Other Contract  <input type="checkbox"/> 195 Contract Product Liability  <input type="checkbox"/> 196 Franchise         </td> <td> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane  <input type="checkbox"/> 315 Airplane Product Liability  <input type="checkbox"/> 320 Assault, Libel &amp; Slander  <input type="checkbox"/> 330 Federal Employers' Liability  <input type="checkbox"/> 340 Marine  <input type="checkbox"/> 345 Marine Product Liability  <input type="checkbox"/> 350 Motor Vehicle  <input type="checkbox"/> 355 Motor Vehicle Product Liability  <input type="checkbox"/> 360 Other Personal Injury  <input type="checkbox"/> 362 Personal Injury - 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<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))																			
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions																			
				<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes																			
<b>V. ORIGIN</b> <i>(Place an "X" in One Box Only)</i>																							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer																		
				<input type="checkbox"/> 8 Multidistrict Litigation - Direct File																			
		Cite the U.S. Civil Statute under which you are filing ( <i>Do not cite jurisdictional statutes unless diversity</i> ): <b>40 U.S.C. 3113 and 3114</b>																					
<b>VI. CAUSE OF ACTION</b>		Brief description of cause: <b>Land condemnation proceeding for easements for border security tower and related structures.</b>																					
<b>VII. REQUESTED IN COMPLAINT:</b>		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.		DEMAND \$	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																		
<b>VIII. RELATED CASE(S) IF ANY</b>		(See instructions): JUDGE _____ DOCKET NUMBER _____																					
DATE 12/28/2020		SIGNATURE OF ATTORNEY OF RECORD <i>/s/ N. Joseph Unruh</i>																					
FOR OFFICE USE ONLY																							